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**FISCAL IMPACT STATEMENT**

**LS 7558**

**BILL NUMBER:** HB 1379

**NOTE PREPARED:** May 1, 2009

**BILL AMENDED:** Apr 29, 2009

**SUBJECT:** Unemployment Compensation and Labor Issues.

**FIRST AUTHOR:** Rep. Niezgodski

**FIRST SPONSOR:** Sen. Kruse

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Oversight Committee:* This bill establishes the Unemployment Insurance Oversight Committee to: (1) oversee the Department of Workforce Development's administration of the unemployment insurance system; (2) recommend improvements in the collection of contributions and reimbursements and in the determination of eligibility for and the payment of unemployment benefits; (3) monitor the Unemployment Insurance Benefit Fund; and (4) make recommendations to improve the solvency of the Fund.

*Reimbursable Employers:* The bill provides that reimbursable employers pay only the portion of extended benefits not reimbursed by the federal government.

*Employer Premiums:* The bill increases the taxable wage base from \$7,000 to \$9,500.

It expands the definition of an "employing unit" to include all forms of legal entities.

The bill adds restrictions on an employer's ability to create a new experience account for purposes of reducing the employer's contribution rate. It phases out the current tax rate schedule, and provides a new tax rate schedule effective in 2010. The bill also provides that for calendar year 2010 new Schedule B applies in determining and assigning each employer's contribution rate.

The bill permits an employer with a debit reserve ratio to elect once, after December 31, 2009, and before January 1, 2012, to make a voluntary contribution to the fund and receive a credit to the employer's account equal to 250% of the amount of the voluntary contribution. It limits the credit to the amount necessary for the employer to attain the next lower contribution rate. The bill also permits an employer to pay the voluntary

contribution in equal periodic payments over a period not to exceed five years.

*Benefits & Claims:* This bill requires that extended benefits be paid for at least 13 weeks after a determination that the state "on" indicator is in effect. It changes the "off" indicator to the maximum allowable under federal law. The bill provides an additional "on indicator" under which extended benefit periods may be triggered. It also increases the total extended benefit amount payable to an individual for extended benefit periods beginning in a "high unemployment period". The bill specifies that the additional "on" indicator expires on the later of December 5, 2009, or the week ending four weeks before the last week for which federal sharing is authorized by the federal American Recovery and Reinvestment Act of 2009 (ARRA). It provides that for any weeks of unemployment beginning after February 17, 2009, and before January 1, 2010, an individual's eligibility period for extended benefits is considered to include any week that begins: (1) after the date as of which the individual exhausts all rights to emergency unemployment compensation; and (2) during an extended benefit period that began on or before that date.

The bill provides that the term "effort to secure full-time work" includes submitting at least one application for work each week that the individual is claiming benefits. It provides that submitting an online application satisfies this condition. The bill permits the department to waive the job search requirement when an individual is: (1) attending training; (2) a job-attached worker with a specific recall date that is not more than 60 days after separation; or (3) using a hiring service, referral service, or other job placement service. It also permits a waiver when requiring compliance with the requirement is inconsistent with the purposes of unemployment insurance law.

The bill provides that as conditions precedent to the payment of benefits to an individual for benefit periods established on and after January 1, 2010: (1) the individual must have established, after the last day of the individual's last base period wage credits equal to at least 1.5 times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and (2) the individual must have established wage credits in the last two calendar quarters of the individual's base period in a total amount of not less than \$2,500 and an aggregate in the four calendar quarters of the individual's base period of not less than \$4,200.

The bill provides that the definition of "discharge for just cause" includes the violation of a rule regarding attendance.

The bill reduces the maximum benefit amount of an individual's current claim by 25% as a penalty for an individual's first separation from employment under disqualifying conditions or first failure to apply for or accept suitable work. It provides for additional reductions in an individual's maximum benefit amount of 15% for the second separation or failure and 10% for the third and each subsequent separation or failure.

The bill provides that work is not considered unsuitable during the fifth through the eighth consecutive week of claiming benefits if the work pays not less than 90% of the individual's prior weekly wage work. It provides that work is not considered unsuitable after eight consecutive weeks of claiming benefits if the work pays not less than 80% of the individual's prior weekly wage.

*Misconduct:* The bill expands the definition of "gross misconduct" for which an individual's wage credits are canceled. It provides that the employer has the burden of proof that a discharged employee's conduct was gross misconduct, and allows evidence that the employer filled or maintained the position or job held by a discharged employee after the employee's discharge. The bill also permits evidence that a discharged employee has not been prosecuted or convicted for the conduct. It provides that if evidence is presented that an action or requirement of the employer may have caused the conduct that is the basis for the employee's

discharge, the conduct is not gross misconduct. The bill provides that lawful conduct not otherwise prohibited by an employer is not gross misconduct. It also deletes the requirement that a felony or a Class A misdemeanor may constitute gross misconduct only if the felony or misdemeanor is admitted by the individual or has resulted in a conviction.

The bill expands the types of information a notice of a claim for Unemployment Benefits must provide.

*Compliance Center:* The bill requires the Department of Workforce Development to establish an Unemployment Claims Compliance Center to investigate instances in which information provided by an individual who files a claim does not match information provided by the individual's base period employers. The bill charges half of the benefits paid to an employer's account if the employer fails to respond to a request by the Department for information necessary to make a determination concerning a claim and the employer eventually prevails in the appeal. It provides for a credit to the employer's account equal to the amount of any overpayment recovered.

*Training:* The bill requires the Department to provide annually certain training to all administrative law judges, review board members, and other individuals who adjudicate claims. It requires the Department to regularly monitor the hearings and decisions of individuals who adjudicate claims to ensure that the hearings and decisions strictly comply with the law, and provides for Department disciplinary action up to and including termination for an individual's failure to do so.

*Processing Fee:* The bill authorizes the Department to charge a reasonable processing fee not to exceed \$2 for records concerning an individual's last known employer that must be disclosed by court order.

*Special Employment and Training Services Fund:* The bill requires the Unemployment Insurance Board to transfer from the Special Employment and Training Services Fund (Special Fund) to the Unemployment Insurance Benefit Fund amounts in the Special Fund that exceed \$8.5 million.

The bill establishes the Hoosier Workers First Training Program to allocate to employers or consortiums money for incumbent worker training grants that enable workers who reside in Indiana to obtain recognizable credentials or certifications and transferable employment skills that improve employer competitiveness.

*Federal Stimulus Funding:* The bill requires the Commissioner of the Department to:

1. Examine the annual cost of implementing changes to eligibility and other requirements of the state's existing unemployment insurance system in order to qualify for the maximum amount available to a state under the ARRA;
2. Compare the annual cost of implementing changes with the maximum amount available to the state under the ARRA as a result of making the changes;
3. Initiate the changes examined, unless the commissioner determines that the negative fiscal impact to the fund outweighs the benefits of the amounts available to the state under the ARRA and the expansion of eligibility and other requirements of the state's existing unemployment insurance system; and
4. Submit to the Legislative Council, the Unemployment Insurance Oversight Committee, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate a report that:
  - a. Details the commissioner's actions, or the commissioner's decision not to initiate changes;
  - b. Recommends any legislation necessary to modify the state's unemployment insurance system in order for the state to qualify for amounts available under the ARRA; and
  - c. Analyzes the fiscal impact to the fund of the commissioner's actions, or decision not to

initiate changes, and recommended legislation.

*Repealers:* The bill repeals (1) expired employer rate schedules; (2) expired provisions concerning the Skills 2016 Training Program; (3) expired definition of "dependent"; and (4) a provision concerning witness fees.

**Effective Date:** Upon passage; July 1, 2009.

**Summary of NET State Impact:** The following is a summary of the potential net impact.

Provisions	CY 2010	CY 2011
Tax Base and Rate Schedule Change	\$295.1 M	343.5 M
Voluntary Contributions	\$18.0 M	
Expanded Definition of Employing Unit	\$18.5 M	\$18.5 M
Including Attendance in Discharge for Cause	\$15.0 M	\$15.0 M
Gross Misconduct	\$20.0 M	\$20.0 M
Monetary Eligibility Guideline Modifications	\$50.0 M	\$50.0 M
Compliance Center	\$45.0 M	\$45.0 M
Requirement of One Application per Week	\$12.0 M	\$12.0 M
<b>Total Increase in Fund Revenue or Decrease in Benefits</b>	<b>\$473.6 M</b>	<b>\$504.0 M</b>

**Explanation of State Expenditures:** *Oversight Committee:* The bill would create the Unemployment Insurance Solvency Advisory Committee. The Committee consists of 10 voting members (3 from the Senate, 3 from the House, 2 representing labor, and 2 representing businesses) to monitor and make recommendations to increase the solvency of the Unemployment Insurance Benefit Fund. The Committee is required to report annually to the Legislative Council. The Legislative Service Agency is to provide administrative support for the committee. At the request of the Legislative Services Agency, the Department of Workforce Development is to assign staff to provide research and other support. The bill appropriates the money necessary for the committee from the state General Fund. The budgets for interim study committees in recent years have been \$9,500.

*Reimbursable Employers:* The provision clarifies that reimbursable employers are responsible for benefits not paid by the federal government. The provision should have no fiscal impact.

*Benefits & Claims:* The bill requires a claimant to file one job application weekly. It also provides that a job is not considered unsuitable if the job pays above the state minimum and during the fifth through the eighth consecutive week of claiming benefits the work pays at least 90% of the individual's prior weekly wage and at least 80% after eight consecutive weeks of claiming benefits. The impact of the 25% penalty of the individuals current claim for their first separation from employment under a disqualifying condition or first failure to apply for suitable work would reduce benefits. These provisions are estimated to save about \$12 M annually. The impact assumes about 1% of claimants fail to submit at least one application per week.

There could be additional savings if this provision decreased the time the claimant received benefits.

The change in the monetary eligibility guidelines to at least \$2,500 in the last two calendar year quarters and \$4,200 in the base period is estimated to reduce benefits by about \$50M annually.

The fiscal impact of providing that the definition of discharge for a just cause includes the violation of a rule regarding attendance should reduce expenditures from the fund. If the change resulted in a 1% reduction in expenditures, the savings would be about \$15 M.

The change in the trigger for extended benefits should have no state fiscal impact. The impact in the length of benefits would be paid by federal stimulus money.

*Misconduct:* The expansion of the definition of gross misconduct is estimated to save about \$20 M annually. The impact assumes that about 1.5% of filed claims might be disapproved due to gross misconduct.

*Compliance Center:* The Compliance Center would reduce expenditures. The projected benefits paid during CY 2009 are estimated to be about \$1.5B. If 3% of the expenditures are improperly paid, the cost to the fund would be about \$45M annually.

*Training:* The cost of providing annual training to all administrative law judges, review board members, and other individuals who adjudicate claims would depend on the number being trained and the duration of the training. The cost would be paid from the Department's unemployment insurance administrative account, which is federally funded. The cost would probably be under \$10,000 annually. The cost to the Department to regularly monitor the hearings and decisions of individuals who adjudicate claims to ensure that the hearings and decisions strictly comply with the law would also probably be minor and federally funded.

*Hoosier Workers First Training Program:* The bill establishes the Hoosier Workers First Training Program for the purpose of improving manufacturing productivity levels in Indiana, enabling firms to become more competitive, creating a more competitive economy by creating and retaining jobs, encouraging increased training of the workforce, and avoiding potential payment of unemployment compensation by providing workers with enhanced job skills. The Department of Workforce Development is to administer the program. A nonreverting fund is also established for the program and is to be allocated to employers for worker training grants. The fund consists of appropriations and earnings from the fund. No appropriation is provided in the bill.

**Explanation of State Revenues:** *Employer Premiums:* The bill would increase the wage base from \$7,000 to \$9,500 and would implement a new rate schedule. For CY 2010, the changes would generate an estimated additional \$295.1 M and an additional \$343.5 M in CY 2011.

It is unknown how many total debit reserve ratio employers might make a voluntary contribution to the debit reserve ratio and receive a credit to the employer's account equal to 250% of the amount of the voluntary contribution. The balance of all debit reserve ratio employers is about -\$1.8 B. Each 1% of voluntary contributions made would generate \$18 M of one-time income to the fund, and employers would receive a reduction in their negative balance of about \$45 M.

The change in the definition of an "employing unit" to include all forms of legal entities and the restriction on an employer's ability to create a new experience account to reduce their contribution rate is estimated to generate an additional \$18.5 M annually in premiums. The impact assumes about 10% of the current debit

balance employers might try to change their status to acquire the new employer rating of 2.5% instead of their current rate. The current effective rate of debit employers is about 7%.

*Processing Fee:* The increased revenue from the reasonable processing fee not to exceed \$2 for records concerning an individual's last known employer that must be disclosed by court order is probably small. The Department can currently charge 10 cents per page.

*Special Employment and Training Services Fund:* The Special Employment and Training Services Fund on February 9, 2009, had a balance of about \$13 M, but according to the Department of Workforce Development most of the \$13 M is obligated. The Department transferred \$20 M to the Unemployment Insurance Fund in October 2008.

*Federal Stimulus Funding:* The provisions allowing the Commissioner of the Department of Workforce Development to implement changes to the system to maximize the federal stimulus money could increase state revenue.

*Background:* The Unemployment Insurance Benefit Fund paid \$785.8 M in benefits and received revenue of \$582.1 M in FY 2008. As of April 28, 2009, the state had borrowed about \$797.3 M from the federal government to pay unemployment insurance benefits.

**Explanation of Local Expenditures:** The local impact would be as an employer.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Workforce Development.

**Local Agencies Affected:** All.

**Information Sources:** Department of Workforce Development.

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